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10/596,468

06/14/2006

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112701-737

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07/08/2009

EXAMINER

CHEN, CATHERYNE

ART UNIT

PAPER NUMBER

1655

NOTIFICATION DATE

DELIVERY MODE

07/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/596,468 | Applicant(s) RICHELLE ET AL. | |
| | Examiner CATHERYNE CHEN | Art Unit 1655 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16, 19, 20, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9, 11-16, 23-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendments filed on March 31, 2009 has been received and entered.

Currently, Claims 1-9, 11-16, 19-20, 23-24 are pending. Claims 9, 11-16, 23-24 are examined on the merits. Claims 10, 17-18, 21-22, 25-26 are canceled.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Applicant's election with traverse of Group II (Claims 9-18, 21-26), the species hesperidine, vitamin C, human, ageing, hair gloss, skin, in the reply filed on Oct. 24, 2008 is acknowledged.

Response to Arguments

Claim Rejections - 35 USC § 112

A previously stated, Claims 9, 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 9, the term "improving" is subject to interpretation; thus, what is an improvement is indefinite. Please correct and define.

Claim Rejections - 35 USC § 102

Claims 9, 11-15, 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ameer et al. (1996, Clin Pharm Ther, 60, 34-40) as evidenced by Hesperidin170 (http://170.107.206.70/drug_info/nmdrugprofiles/nutsupdrugs/hes_0295.shtml) for the reasons set forth in the previous Office Action, which is set forth below. All of Applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive.

Ameer et al. teaches oral doses of 500 mg hesperidin from grapefruit juice and orange juice, where hesperitin or hesperetin were detected in urine and plasma in man to be less than 25% or less than 25% of 500 mg = 125 mg (Abstract, Methods). Hesperetin is the aglycone equivalent of hesperidin (see Description, paragraph 3, Hesperidin170 (http://170.107.206.70/drug_info/nmdrugprofiles/nutsupdrugs/hes_0295.shtml)). Ameer et al. does not specifically teach using hesperidin to prevent skin disorder. However, the method of preventing skin disorder is considered to inherently teach the claimed method because both the reference and the claimed invention are administering the same composition to the same patient. The patient is the same because every person

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has skin. Thus, on the administration of hesperidin to any patient, a prevention of skin disorder would have had to occur if applicant's invention function as claimed.

Applicant argues that oral administration is not taught.

In response to Applicant's argument, all citrus flavonoids were administered orally, where 500 mg hesperidin was stirred in water and swallowed (see Methods, paragraph 2).

Applicant argues that "skin disorder" is not taught.

In response to Applicant's argument, skin is constantly under germs, pollution and radiation bombardment; therefore, there one always has some form of "skin disorder" due to external stress. Skin disorder would inherently be present because the function of skin is to fight disorders.

Claims 9, 11-12, 14-15, 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bottomley (US 4049798) as evidenced by Hesperidin170 (http://170.107.206.70/drug_info/nmdrugprofiles/nutsupdrugs/hes_0295.shtml) for the reasons set forth in the previous Office Action, which is set forth below. All of Applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive.

Bottomley teaches a method for treatment herpes simplex with Vitamin C and Vitamin P (Abstract) at 200 mg each at one capsule 3 times a day to white male (column 6, lines 60-63). Citrus bioflavonoids, known as vitamin P (column 3, lines 3-4). Herpes simplex is infection of the skin cells (column 4, lines 6-14). Hesperidin is also known as vitamin P (see Description, paragraph 2, Hesperidin170

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(http://170.107.206.70/drug_info/nmdrugprofiles/nutsupdrugs/hes_0295.shtml).

Bottomley does not specifically teach using hesperidin to prevent skin disorder.

However, the method of preventing skin disorder is considered to inherently teach the claimed method because both the reference and the claimed invention are administering the same composition to the same patient. The patient is the same because every person has skin and ages. Thus, on the administration of hesperidin to any patient, a prevention of skin disorder would have had to occur if applicant's invention function as claimed.

Applicant argues that hesperidin is not taught.

In response to Applicant's argument, vitamin P is hesperidin (see Description, paragraph 2, Hesperidin170

(http://170.107.206.70/drug_info/nmdrugprofiles/nutsupdrugs/hes_0295.shtml).

Applicant argues that skin disorder is not taught.

In response to Applicant's argument, herpes virus affect the area of the lip, which is made of skin cells (see Bottomley, column 4, lines 12-15).

Claims 9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizuguchi (JP 09252746 A).

Mizuguchi teaches food supplement for human to promote hair growth stimulation and hair loss prevention with tablet of hesperidin (Abstract). Hair gloss is inherently taught because when one takes the supplement to promote hair growth, when the hair grows the hair will have gloss.

Conclusion

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERYNE CHEN whose telephone number is (571)272-9947. The examiner can normally be reached on Monday to Friday, 9-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Catheryne Chen
Examiner Art Unit 1655

/Michael V. Meller/
Primary Examiner, Art Unit 1655